

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claims 4, 6, and 13 have been cancelled without prejudice. Claims 1-3, 5, 7-12, and 14-67 are now pending in this application.

Rejection under 35 U.S.C. § 102

On page 2 of the Office Action, Claims 1-3, 5, 7-12, and 14-67 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2001/0049646 (Wilkinson). Applicant respectfully traverses the rejection. Wilkinson does not disclose, teach, or suggest the claimed invention as recited in Claims 1-3, 5, 7-12, and 14-67. Applicant also respectfully submits that Wilkinson is not available as a prior art reference against the claims of the present application as discussed further below.

Claims 1-3, 5, 7-12, 14-55, and 58-67

Claims 2, 3, 5, 7-12, 14-55, and 58-67 depend from Claim 1. Claim 1 recites:

if the referral becomes engaged, establishing an account for the referral within a marketplace in the transaction management and financial services system.

With respect to Claim 1 and on pages 2-3 of the Office Action, the Examiner states that Wilkinson teaches all of the limitations of Claim 1. Applicant respectfully disagrees. There is no disclosure, suggestion, or teaching in Wilkinson of “establishing an account for the referral within a marketplace in the transaction management and financial services system.”

Applicant on page 13, lines 21-30 states:

FIGURE 3 illustrates an exemplary embodiment of marketplace 201 that is configured to interact with buying communities 211 and 221 and financial institution 231. Buying communities 211 and 221 consist of at least one buyer and at least one seller.” On page 14, lines 6-8, Applicant states that “in an exemplary embodiment, marketplace 201 can be implemented as a plurality of customized

web pages in which participants interact with other participants in marketplace 201.

Wilkinson discloses a “pool,” but the pool describes a set of either suppliers or demanders that can be searched. In reference to the pool, Wilkinson states:

The method comprises being a first supplier to refer the first demander to a service provider ... who collects data from the first demander and enters it into a database and makes that data available to one or more other suppliers in a pool”

(see page 1, paragraph [0009], Emphasis added).

In addition to creating a pool of suppliers that can be searched, the method also creates a pool of other demanders who can be searched.

(see page 5, paragraph [0049], Emphasis added).

The invention also creates a pool of other suppliers that the supplier can search for potential partners.

(see page 6, paragraph [0051], Emphasis added).

There is absolutely no disclosure, suggestion, or teaching in Wilkinson of “establishing an account for the referral within a marketplace in the transaction management and financial services system.” (Emphasis added). On page 4 of the Office Action, the Examiner states that “there is an undisputable marketplace disclosed by Wilkinson.” Whether Wilkinson discloses a marketplace or not, Wilkinson fails to teach, suggest or disclose “establishing an account for the referral within a marketplace in the transaction management and financial services system.” An anticipation rejection cannot properly be maintained where the reference used in the rejection does not disclose all of the recited claim elements. As a result, Applicant respectfully requests withdrawal of the rejection of Claims 1-3, 5, 7-12, 14-55, and 58-67.

Claim 56

Claim 56 recites:

if the referral becomes engaged, means for establishing an account for the referral within a marketplace in the transaction management and financial services system.

As explained with respect to Claim 1 above, Wilkinson does not disclose, suggest, or teach the “means for establishing an account for the referral within a marketplace in the transaction management and financial services system.” Wilkinson discloses a “a pool of suppliers that can be searched” and “a pool of other demanders who can be searched.”

Claim 57

Claim 57 recites:

first computer readable program code configured to:

if the referral becomes engaged, establish an account for the referral within a marketplace in the transaction management and financial services system;

As explained with respect to Claim 1 above, Wilkinson does not disclose, suggest, or teach the “first computer readable program code configured to, if the referral becomes engaged, establish an account for the referral within a marketplace in the transaction management and financial services system.” Wilkinson discloses a “a pool of suppliers that can be searched” and “a pool of other demanders who can be searched.”

Anticipation of a claim by a prior art reference requires that the reference disclose each and every limitation in the claim. Wilkinson does not teach the account for referral within a marketplace as recited by Applicant’s claims. Accordingly, the rejection under 35 U.S.C. §102(e) of claims 1-3, 5, 7-12, and 14-67 based on Wilkinson cannot be properly maintained. Applicant respectfully requests the withdrawal of the rejection.

Declaration under 37 C.F.R. 1.131

Additionally, Applicant respectfully submits that Wilkinson, which is a continuation-in-part of U.S. Patent Application No. 09/669,286, filed on September 26, 2000, is not available as a prior art reference against the claims of the present application. A Declaration by the inventor pursuant to 37 C.F.R. § 1.131 has been provided herewith, which provides evidence that the subject matter recited in the pending claims was conceived and reduced to practice prior to the filing date of Wilkinson. According to the cover page of Wilkinson, Wilkinson was filed on January 12, 2001, as U.S. Patent Application No. 09/759,571. The Declaration establishes that the subject matter recited in Claims 1-3, 5, 7-12, and 14-67 was conceived at least by May 27, 2000. Exhibits A and B attached to the Declaration were submitted to KPMG LLP for evaluation of a business plan that includes the system claimed and includes drawings and statements establishing the invention of the subject matter recited in Claims 1-3, 5, 7-12, and 14-67 at least by May 27, 2000, which is before the January 12, 2001, filing date of Wilkinson and before the September 26, 2000, filing date of Wilkinson's parent application. It is Applicant's position that Wilkinson's disclosure as it applies to the rejected claims is not supported by the provisional applications to which Wilkinson claims priority.

Accordingly, the rejection of Claims 1-3, 5, 7-12, and 14-67 should be withdrawn because Wilkinson is not available as prior art under 37 C.F.R. § 102(e) against such claims. Reconsideration and withdrawal of the rejections of Claims 1-3, 5, 7-12, and 14-67 under 35 U.S.C. § 102(e) is therefore respectfully requested.

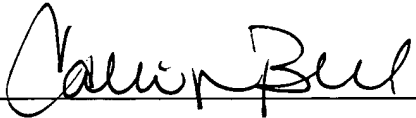
Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2350.

Respectfully submitted,

Date June 6, 2006

By 

FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4263
Facsimile: (608) 258-4258

Callie M. Bell
Attorney for Applicant
Registration No. 54,989